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THE CHINESE TARIFF CONFERENCE - OCTOBER 26, 1925

This report presents briefly the essential facts on which the discussions of the Special Tariff Conference at Peking, authorized by the Nine Power Customs Treaty of the Washington Conference, will be based. It covers the following points:

Scope of the Conference

China's Request for Tariff Autonomy

The Powers' Reply of September 4, 1925

Background of Foreign Customs Control

China's Objections to Existing Tariff Regime

China's Specific Proposals

Foreign Objections to China's Proposals

The Likin Problem and its Relation to Increased Rates.

PROVISION FOR THE SPECIAL TARIFF CONFERENCE

Article II of the Nine Power Customs Treaty signed at the Washington Conference provides that a special conference "shall meet in China within three months of the coming into force of the present Treaty, on a day and at a place to be designated by the Chinese Government". The article further provides that the Conference "shall be composed of representatives of the Signatory Powers and of such other Powers as may desire to participate and may adhere to the present Treaty".

With the ratification of France the Nine Power Treaty came into effect August 5, 1925, and China promptly invited the Powers to convene in Peking, October 26. The Powers participating include: The United States, Great Britain, Japan, France, Italy, Belgium, Portugal, The Netherlands and China as signatories of the Nine Power Customs Treaty, and Norway, Sweden and Denmark by special adherence.

SCOPE OF THE CONFERENCE

The Special Tariff Conference is charged with the following duties:

- (1) Preparation of "The Way for the Speedy Abolition of Likin (a local tax on goods in inland transit) and for the Fulfillment of the Other Conditions Laid Down" in Earlier Treaties.

These Treaties are:

- (1) The Sino-British (Mackay) Treaty of 1902;
- (2) The supplementary Sino-Japanese Treaty of October 8, 1903;
- (3) The Treaty of the same date between the United States and China.

The Mackay Treaty presented a plan whereby China was wholly to abandon likin charges upon articles of import and export in exchange for the right to increase her import duties to a total of 12½% ad valorem and her export duties to 7½%. Provision was made, however, that this arrangement before becoming effective should receive the approval of all the other Powers entitled to most-favored-nation treatment. This approval has been given only by Japan and the United States.

In the Sino-Japanese Treaty, Japan consents to pay the same surtax as is agreed upon between China and all the Treaty Powers, with the understanding that the commerce, rights and privileges of Japan shall not on account of the above be placed at any disadvantage as compared with the commerce, rights and privileges of other Powers.

In the American Treaty, China undertakes to abandon the levy of likin and all other transit duties throughout the country, and to abolish the offices, stations and barriers maintained for their collection, and not to establish other offices for levying duties on goods in transit. In return the United States consents to allow a surtax of not to exceed 12½% ad valorem on foreign goods imported by citizens of the United States and 7½% on Chinese produce destined for export abroad or coastwise, on the understanding that payment of the import duty and surtax shall secure for foreign imports complete immunity from all other taxation, examination or delay.

The provisions of these treaties have never become actually operative, both because of the failure of other Powers to give the requisite approval, and because of the many difficulties inherent in the task of abolishing likin in China.

These treaties were, however, reiterated by the Nine Power Customs Treaty as the basis of procedure at the forthcoming Tariff Conference. Therefore, if these terms of reference are rigidly followed, the tariff can be raised only to a maximum of 12½ per cent.

There are indications, however, in the replies of the Powers, as indicated below, that the scope of the tariff conference may be enlarged.

(2) Consideration of the Interim Provisions to be Applied.

Since the execution of these provisions must at best require a very considerable period of time, it is stipulated by Article III, paragraph 1 of the Nine Power Treaty that the Special Tariff Conference shall consider "interim provisions to be applied prior to the abolition of likin, and the fulfilment of other conditions laid down in the articles of the Treaties mentioned above".

(3) Authorization of Surtax and Special Luxury Tax.

The most important interim provision under contemplation, is that of a surtax which, by the same article, the Special Tariff Conference is authorized to levy "on dutiable imports, as from such date, for such purpose, and subject to such conditions as it may determine". This surtax "shall be at a uniform rate of $2\frac{1}{2}\%$ ad valorem".

It is also provided "that in case of certain articles of luxury which in the opinion of the Special Conference can bear a greater increase without unduly impeding trade, the total surtax may be increased but may not exceed 5% ad valorem".

Any surtax imposed in pursuance of the Treaty is to be "levied at a uniform rate ad valorem at all land and maritime frontiers of China", save in certain exceptions which may be made in the Tariff Conference. It has been pointed out that the wording of the Treaty instructions gives the Special Tariff Conference very wide powers to specify the use which shall be made of the increased revenue resulting from the levy of the surtax.

(4) Rules for Future Tariff Revisions.

In order to prevent delay in future tariff revisions, rules of procedure are to be laid down by the Special Tariff Conference.

(5) Uniformity of Land and Maritime Rates.

The Conference is further instructed to "make arrangements to give practical effect to the principle of uniformity in the rates of customs duties levied at all land and maritime frontiers of China". At the same time the Conference "is authorized to make equitable adjustments in those cases in which a customs privilege to be abolished was granted in return for some local economic advantage".

(6) Provision for a Board of Reference for Far Eastern Questions.

A special resolution adopted by the Washington Conference February 24, 1922, provides that the Special Tariff Conference "shall formulate for the approval of the Powers concerned a detailed plan for the constitution of the Board" of

CHINA'S DESIRE FOR EXTENDING SCOPE OF THE CONFERENCE

While accepting the provisions laid down at Washington with reference to the Chinese Customs Tariff, the Chinese delegation explicitly stated on January 5, 1922 that it did not relinquish China's claim for the restoration of her tariff autonomy. The specific statement was as follows:

"In view of the inherent difficulty and injustice of the present regime and of the wholesome and desirable effect which restoration of tariff autonomy is sure to have upon the trade and economic development of China as well as upon the evolution of her fiscal system, the Chinese delegation feel in duty bound to declare that though this Committee does not see its way clear to consider China's claim for the restoration of her tariff autonomy, it is not their (the delegation's) intent in assenting to the agreement now before you to relinquish their claim; on the contrary it is their intention to bring the question up again for consideration on all appropriate occasions in the future".

The Chinese Government availed itself of this reservation in connection with extending its invitation to the Powers to attend the Special Conference. The text of China's note of August 18, 1925, is reported to state that:

"In pursuance of the above declaration the Chinese Government proposes that the said question shall be also brought up at the forthcoming conference, and expects that some arrangement will be made to remove the tariff restrictions hitherto imposed on China".

AGENDA PROPOSED BY CHINA

That China will demand consideration of full tariff autonomy as the first subject for discussion at the Conference is indicated in the draft agenda proposed by the Chinese Government, and forwarded to the State Department by John Van A. MacMurray, U. S. Minister to China. The text of the agenda to be put forward by China was released by the State Department October 19 without comment. It reads as follows:

"(A) Tariff Autonomy

1. Adoption by the Chinese Government of the Chinese General Customs tariff. For practical convenience a period is to be agreed upon within which to make preparations for the coming into force of tariff autonomy and the application of the Chinese General Customs tariff.

2. Abolition of Likin

"(B) Provisional Measures to be taken during the Interim Period

1. Levy of an interim surtax
2. Levy of a surtax on luxuries
3. Arrangements to unify the rates of customs duties at the land and maritime frontiers.
4. Valuation of Commodities.

"(C) Related Matters

1. Arrangements to ascertain the country of origin of imported goods or products.
2. The depository of Customs revenues".

THE POWERS' REPLY OF SEPTEMBER 4, 1925

The States party to the Nine Power Customs Treaty replied to China's proposal for extending the scope of the Conference in identical notes delivered September 4. Paragraph 5 of the American note reads:

"The questions of the conventional tariff and the extra-territorial rights under which nationals of the Treaty Powers reside in China, are two of the important questions raised by the Chinese Government's note. Both received consideration at the Washington Conference, and it is the belief of the Government of the United States that the most feasible method for dealing with them is by a constant and scrupulous observation of the obligations undertaken at the Conference. To that end the Government of the United States is ready to appoint its delegates to the Special Conference on Chinese Tariff Matters provided for in the Treaty of February 26, 1922, and is further-more willing either at the Conference or at a subsequent time to consider and discuss any reasonable proposal that may be made by the Chinese Government for a revision of the Treaties on the subject of the tariff."

The attitude of the Government of the United States is further indicated in the speech delivered by Secretary Kellogg before the annual meeting of the American Bar Association at Detroit, September 2. Secretary Kellogg said in part:

"I believe that the Powers have all come to the conclusion that the Conference will have to be broadened beyond the strict letter of the Washington Treaty. For its own part this Government is willing either at this Conference or at some subsequent time to consider with China a comprehensive revision of the Treaties dealing with the entire subject of the tariff."

HISTORICAL BACKGROUND

Until the year 1842 China enjoyed the full right of fixing her customs duties, although the administrative system was of such a nature that constant friction arose with foreign merchants engaged with China, and culminated in an acute controversy relating to the smuggling of opium. This controversy ended in 1842 with the Treaty of Nanking between China and Great Britain. By this Treaty, which marks the beginning of China's present tariff system, it was agreed that five ports should be opened for foreign trade, and that a fair and regular tariff of export and import customs and other duties should be published. The first conventional tariff schedule for both imports and exports, based on the general rate of 5% ad valorem, was attached to the subsequent treaty of October 8, 1843. The same schedule was appended to the first treaty with the United States in 1844. During the following years prices began to drop and the 5% customs duty collected appeared consequently to be in excess of the 5% prescribed. A revision was therefore requested by the Treaty Powers and was effected in 1858. During the next forty

years, however, as prices mounted and the Chinese Government had been receiving less than the 5% rate, no request was made on the part of the Treaty Powers for a revision. China herself did not press for a revision because the needs of the Government at that time were comparatively few and the revenues collected, although small, were not inadequate to meet the requirements.

The next revision was not made until 1902 when the need for additional revenue to meet the newly imposed obligations arising out of the "Boxer Protocol" necessitated further changes. In that tariff, however, the rates were calculated on the basis of the average prices of 1897-1899, and the prices prevailing in 1901 were not taken into account. Thus the revenue collected according to this increased tariff was scarcely sufficient to meet the obligations of the indemnity. In 1912 another attempt was made to revise the tariff in order to bring it more in accord with actual prices. It proved, however, to be a failure, as the unanimous consent of some 16 or 17 Powers was not obtained.

It was only after six years of protracted negotiation that another revision was effected in 1918. The purpose of this revision was to increase the rate to an effective 5%, but the resulting tariff, which was in force until 1922, yielded only an actual 3½%.

A resolution adopted by the Powers represented at the Washington Conference provided for an immediate further revision of the tariff schedule so that the rates of duty should be equivalent to an effective 5%. The Revision Commission sat in Shanghai many months, and the new tariff came into effect January 7, 1923.

CHINA'S OBJECTIONS TO THE EXISTING TARIFF REGIME

China objects to the existing tariff regime on the following grounds, as brought out by official statements made at the Washington Conference:

(1) Tariff autonomy is a sovereign right enjoyed by all independent states. Its free exercise is essential to the well-being of the state. The existing Treaty provisions by which the levy of customs duties, transit dues and other imposts is regulated, constitute not only a restriction on China's freedom of action but an infringement of her sovereignty. Restoration of her tariff autonomy would only be a recognition of a right which is hers and which she relinquished against her will.

(2) The existing tariff regime constitutes a serious impediment to the Chinese export trade and to China's economic development. Under this regime China enjoys no reciprocity with any of the Powers with which she stands in Treaty relations; though every Treaty Power enjoys the right of having its goods imported into China at the exceptionally low rate of 5% ad valorem, Chinese merchandise on entering into any of these countries is subjected to the maximum rates leviable, in some cases 60 or 70 times the rate which she herself levies on foreign imports. The

necessity of levying uniform duties on all articles imported into China, on the other hand, makes these duties on such articles as machinery and raw materials for Chinese industries a handicap to China's industrial development.

(3) The present tariff is unscientific, as it fails to take into consideration the economic and social as well as the physical needs of the Chinese people. A uniform rate for all commodities, without differentiating between luxuries and necessities, has obvious disadvantages.

(4) The maintenance of the present tariff regime means a continued loss of revenue to the Chinese Government. As a large part of China's customs revenues is pledged to meet various foreign loans secured thereon, the surplus available for the needs of the Government is entirely inadequate. Much of the elasticity of the fiscal systems of other states depends upon their freedom to regulate their customs duties. Restoration of tariff autonomy is essential if China is to be accorded the fullest and most unembarrassed opportunity to develop and maintain for herself an effective and stable Government.

(5) Under the existing regime it is exceedingly difficult to revise the tariff even for the modest purpose of raising it to an effective 5%, since the unanimous consent of more than a dozen Treaty Powers is necessary. As each country naturally desires to protect and promote its own commercial interest in China, they all seek to avoid the burden of the new revenue or increased rate falling upon the industries of their own countries. With this end in view different conditions are frequently attached by the several Powers to their consent to revised customs tariff or increased rate. Furthermore, since unanimity is required, the dissent of one Power is sufficient to withdraw and upset a general arrangement agreed to by all the others, while by virtue of the most-favored-nation clause a concession or privilege granted by China to one nation for a specific consideration, is at once claimed by all without regard to the quid pro quo.

(6) Prior to the revolution of 1911 the customs revenue was deposited in the so-called Chinese Customs Bank under the supervision of Chinese authority, thus enabling China to meet commercial and industrial needs in each community. Since 1911, all of the customs revenue has been deposited in foreign banks, and the money is no longer quickly accessible to Chinese customers for legitimate purposes of commerce and trade. As a result constant anxiety has prevailed in the Chinese commercial and trading communities because money has been scarce and tight.

CHINA'S SPECIFIC PROPOSALS

The Chinese delegation at the Washington Conference made the following specific requests and proposals:

- (1) Immediate increase of the 5% import duty to 12½%.
- (2) Abolition of likin by China on January 1, 1924, and levying from that date of certain surtaxes, some of which were al-

ready authorized by existing treaties.

(3) Establishment within five years by negotiation and treaty of a new customs regime on the basis of a maximum rate of 25% ad valorem for any article imported into China, within which rate China should be free to fix and differentiate the tariff rates.

(4) Abolition of reductions applicable to land customs duties.

(5) Abrogation within ten years of the Treaty provisions between China and the Powers by which the levy of customs duties, transit dues and other imposts is regulated.

(6) Continuation of the present system of customs administration and the undisturbed division of the customs revenues to the services of the foreign loans secured thereon.

While making these representations, however, China voluntarily made the formal declaration at the Washington Conference, "that the Chinese Government have no intention to effect any change which may disturb the present administration of the Chinese Maritime Customs." In this connection, however, it was made clear that such a "declaration of intention not to disturb the present administration could not be reasonably construed to preclude the Chinese people from realizing the legitimate aspiration to make the Chinese Maritime Customs Service an institution more national in character," especially since there is a "very general feeling that more Chinese should be trained to assume the functions of the more responsible posts in the service."

As indicated above, China proposed on August 18, 1925 that the entire question of tariff autonomy be brought up at the forthcoming Conference.

FOREIGN OBJECTIONS TO CHINA'S PROPOSALS (Quoted with adaptations from Willoughby "China at the Conference" pp 62-63)

Doubt was felt by the representatives of some of the Powers at the Washington Conference whether it would be advantageous to China to give her an increased revenue which might find its way into the hands of the various military commanders or "Tuchuns" in China and thus tend to strengthen those leaders who as yet had not been brought into due subordination to the civil authorities. Accordingly even those delegations desirous of enabling China to increase her customs revenues were inclined to impose the condition that China should give the undertaking that the increased revenue to be derived by her should be devoted to certain specific purposes. According to Willoughby, there is reason for believing that the United States was not disposed to require such an undertaking, but that Japan was insistent that out of this increase provision be made for the payment of outstanding debts to foreign financial interests which had already matured, and that Great Britain desired that this increase should be devoted to specific productive enterprises. There was also some discussion in the sub-committee as to whether the increased revenues which China might receive might be divided into allot-

ments - certain percentages to be devoted to debt payments, education and productive enterprises, and the remainder to be available for the current administrative expenses of the Chinese Government. This plan, however, came to naught when it was finally decided that China was not to be given the immediate Treaty right to levy more than an effective 5% on imports. It should further be said that even when it was proposed that the immediate increase of import duties be limited to 7½%, the Japanese delegation protested that this would have such serious effects upon Japanese industries that it could not give its assent. This position was affirmed by the Japanese Government at Tokio.

From the very beginning it appeared certain that because of the unsettled domestic conditions in China no promise would be given by the Powers of a definite date at which China was to obtain complete tariff autonomy.

INCREASE OF TARIFF RATES CONDITIONAL UPON ABOLITION OF LIKIN

Of equal or even greater importance, both at the Washington Conference and at the present time, is the close relationship between the increase of the customs duties and the abolition of likin. As pointed out, the Treaties of 1902-3 laid down the principle that the increase in customs duties to 12½% as proposed in those Treaties should be conditional upon the abolition of likin. This position was reaffirmed by all the Treaty Powers represented at the Washington Conference.

Likin, literally the "contribution of a thousandth", i.e. 1/10 of 1%, is described by the China Year Book as a tax imposed upon goods in inland transit, originally levied to meet the additional expenditure caused by the Taiping Revolution. It was first imposed in 1853 upon goods in transit from one province to another or from one district to another in the same province. In 1861 when the Taiping and Mohammedan Revolutions were simultaneously in progress, the tax was extended throughout the country. Likin stations ("barriers") exist at all large towns and are placed along the main routes of commerce both by land and water, sometimes at intervals of twenty miles or even less. While an official tariff is in existence it is, according to the China Year Book, practically ignored both by officials and traders - by the former in order to allow for "squeeze" or graft, by the latter in order to clear more goods than are actually paid for. It is this element of bartering which has made the likin taxes so uncertain. The tax collected is usually 3% at the departure station, and 2% at each inspection station; when goods are transported through several provinces the total may reach from 15% to 20%."

FOREIGN EXEMPTION FROM LIKIN PAYMENTS

By Treaty provision foreign imports and exports, on payment to the Maritime Customs of half the import duty plus the ad -

valorem tariff, are exempt from likin taxation in the course of transit. In practice, however, this exemption has not always been enjoyed, as is shown by the following quotation from a resolution passed by the 1919 Tariff Revision Commission:

"We feel it incumbent upon us to express the opinion that under the official transit pass system, as at present administered, foreign goods do not receive that full measure of protection from additional taxation to which they are entitled by Treaty, and we would impress on the Chinese Government the urgent necessity of removing this grievance which is a source of constant friction between the Chinese Government and the Foreign Powers."
(Quoted in the China Year Book, 1925, p.778)

A very important extension of this principle was brought into effect by the Shiminoseki Treaty of 1895 between China and Japan, and is now applicable, by virtue of the most-favored-nation clause, to all Treaty Powers. By this amendment not only foreign goods imported from abroad are entitled to likin exemption, but also articles manufactured by foreign factories located in China. In this connection it should be stated that the Chinese Government is strongly opposed to this system on the ground that it makes competition on an equal basis between foreign and Chinese manufactures directly impossible.

CHINA'S DESIRE TO ABOLISH LIKIN

China has on numerous occasions formally expressed her desire to abolish likin. Thus Article IV of the Treaty of 1903 between China and the United States reads in part as follows:

"The Chinese Government, recognizing that the existing system of taxation known as likin impedes the free circulation of commodities to the general injury of trade, hereby undertakes to abandon the levy of likin and all other transit dues throughout the Empire..."

More recently the Chinese delegation at the Washington Conference asserted that likin was a handicap to the internal as well as the external trade in China, and that the substantial classes in China favored its abolition.

THE DIFFICULTY OF ABOLISHING LIKIN

The Chinese delegation at the Washington Conference declared that -

"The Government would be prepared to abolish likin if tariff autonomy were granted and if it were possible to agree on an increase in customs duties which would compensate for its abolition."

Furthermore, the opinion was expressed that the original

proposal of an increase to 13 $\frac{1}{2}$ % would be hardly sufficient in view of the great increase in public expenses.

In considering the possible abolition of likin, however, doubt was expressed by the Foreign Powers as to whether so long as present political conditions should persist in China the Chinese Government at Peking would be able to take effective action throughout the provinces with regard to this matter.

From the Chinese point of view, on the other hand, this difficulty would be not nearly so great as would the problem of finding other sources of revenue to compensate the provinces for the loss of likin. According to investigations made by the Chinese Government in 1920, the annual receipts from likin and similar inland transit taxes were approximately \$54,777,000. (China Year Book, 1925, p.780)

The Chinese Government asserts that the only alternative source of income is an increase in customs duties. The problem is further complicated by the fact that in certain provinces the likin revenues are pledged under the terms of foreign loans.

